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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/713,518 | 11/14/2003 | Frank L. Greenway | 99042-00 | 9982 |

7590

03/09/2005

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EXAMINER

JONES, DAVID B

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,518

Applicant(s)

GREENWAY ET AL. 

Examiner

David B Jones

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>04/19/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 9-13, 15-18, 20, 22-26, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall. Hall teaches the claimed chain including a plurality of links 10/11, a plurality of rod-shaped coupling members 12, an end connection member 15 having an opening in its cylindrical side wall, and end links at 16/16. As to the preamble and claim 28, the intended use of the claimed chain is given little if any patentable weight in article claims; the claimed structure of the chain is met by Hall.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8, 14, 19, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall. Hall teaches the claimed invention excepting 1) the making of the links from stainless steel, 2) the making of the end link removably attachable, and 3) making the end connection permanently connectable to at least one of the ends of the chain. Regarding the first exception, Hall fails to particularly set forth the material of his bead chain, the making of bead chain of a non-corrosive material so that a person

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wearing the chain will not be stained is notoriously well known and the Examiner takes official notice that it is old in the art to make bead chains made of non-staining metals. To have made the chain of Hall from a stainless steel or other material which is non-marking to the wearer of the chain would have been to the artisan of ordinary skill in the art but an obvious choice an chain making expedients, stainless still being a well known expedient the artisan of ordinary skill. Regarding the second exception, Hall teaches permanently attached end links 16 on the ends of his chain, It would have been obvious to one of ordinary skill in the art to have used removable links if so desired to make smaller or bigger the chain and hence meet the wearers demands. With respect to the last exception, Hall teaches that the connector is removable with respect to either end of the chain it is to be connected to, however it would have been obvious to one of ordinary skill in the art at the time of the invention to have crimped one end of the connector member 15 around an end link 16 to prevent the unintentional disconnection of the chain from its wearer.

3. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the articles to "Management Of Obesity. Another View", J.S. Garrow (1992) or "Intermittent Protein-Sparing Fasting With Abdominal Belting", Simpson et al. (1986) when taken in view of Hall. The two articles set forth above teach of belting or using cord around the waist of a wearer to prevent said wearer from over eating and gaining weight. Hence such an idea of belting or cording is an old idea. To have used other types of cords or belts to achieve the same result would have been obvious to one of ordinary skill in the art. To have provided a chain or other structure like unto it, especially that of a ball

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chain which is easily adjustable and easy to wear, would have been such an obvious choice of belting expedients rendering no new or unobvious result to the process.

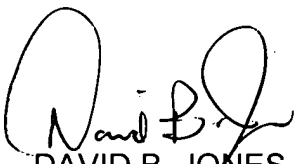
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. JONES whose telephone number is (571) 272-4518.

Any inquiry of a general nature or relating to the status of this application should be directed to telephone number is (571) 272-3700.

In the event that the Applicant(s) wishes to communicate via Fax, the current central Fax number for the patent office is (703) 872-0906

DBJ


DAVID B. JONES
PRIMARY PATENT EXAMINER
ART UNIT 3725